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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,414	01/12/2002	Mortensen Mikael	42390P12312	9962

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EXAMINER

ALI, SYED J

ART UNIT PAPER NUMBER

2195

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,414

Applicant(s)

MIKAEL ET AL.

Examiner

Syed J. Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,24-29 and 33-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,24-29 and 33-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date Dec. 20, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed February 25, 2005. Claims 1-3, 24-29, and 33-39 are presented for examination.
2. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Oath/Declaration

3. **The declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.**

The declaration is defective because it was not executed in accordance with either 37 CFR 1.66 or 1.68. Both inventors have not signed the declaration.

Claim Objections

4. **Claim 24 is objected to because of the following informalities:**
 - a. In line 9 of claim 24, "first semaphore" should read "second semaphore".
 - b. In line 11 of claim 24, "a indicated" should read "as indicated".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claims 24-26 and 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

7. As per claims 24-26 and 34, the claimed "machine-readable medium" is non-statutory for at least the reason that it is not tangibly embodied in a manner as to be executable. The specification defines a "machine-readable medium" as data signals or carrier waves at page 6, paragraph 27. The claimed mediums are not tangibly embodied because they are incapable of being touched or perceived the tangible medium through which they are conveyed.

Claim Rejections - 35 USC § 102

8. **Claims 1-3, 24-29, and 33-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Falik (USPN 6,263,425).**

9. As per claim 1, Falik teaches a method, comprising:

requesting access to a resource for a first process (col. 1 line 65 - col. 2 line 1), the first process having a corresponding first semaphore (col. 1 lines 49-51, 56-57; Fig. 1 element 110);

determining whether the resource is being accessed by a second process (col. 2 lines 4-6), the second process having a corresponding second semaphore (col. 1 lines 49-51, 56-57; Fig. element 112); and

denying the first process access to the resource if the resource is being accessed by the second process as indicated by a lock on the resource, wherein the lock is indicated at the second semaphore (col. 2 lines 1-4).

10. As per claim 2, Falik teaches the method of claim 1, further comprising the first process having a corresponding first local priority and the second process having a corresponding second local priority (col. 3 lines 18-21, 28-30).

11. As per claim 3, Falik teaches the method of claim 1, further granting the first process access to the resource if the resource is not being accessed by the second process as indicated at the second semaphore (col. 2 lines 6-9).

12. As per claim 33, Falik teaches the invention as claimed, including the method of claim 2, further comprising:

determining if access to the resource is simultaneously being requested by the second process (col. 3 lines 18-28); and

granting access to the resource to one of the first process and the second process having a higher local priority of the first local priority and the second local priority (col. 3 lines 28-30, 46-57).

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13. As per claims 24-26 and 34, Falik teaches the invention as claimed, including a machine-readable medium having stored thereon data representing sets of instructions which, when executed by a machine, cause the machine to perform the method of claims 1-3 and 33, respectively (col. 1 lines 9-12).

14. As per claims 27-29 and 35, Falik teaches the invention as claimed, including an apparatus, comprising:

a central processing unit having a processor to execute a plurality of processes including a first process and a second process (col. 6 lines 1-17); and

the processor is further to perform the method of claims 1-3 and 33, respectively.

15. As per claims 36-38 and 39, Falik teaches the invention as claimed, including a system, comprising:

a memory having a plurality of resources being accessed by a plurality of processes (col. 1 lines 33-36), and a plurality of semaphores associated with the plurality of processes (col. 1 lines 49-51, 56-57; col. 4 lines 26-30); and

a processor coupled with the memory, wherein the processor is capable of executing the plurality of processes (col. 6 lines 1-17), the processor is further to perform the method of claims 1-3 and 33, respectively.

Response to Arguments

16. Applicant's arguments with respect to claims 1-3, 24-29, and 33-39 have been considered but are moot in view of the new grounds of rejection.

Conclusion

17. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J. Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.

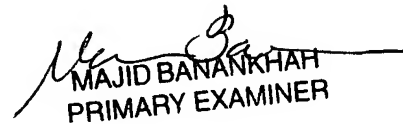
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Syed Ali
April 28, 2005



MAJID BANANKHAH
PRIMARY EXAMINER